

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 40

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR THOMPSON REHDER.

0624S.05P

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 43.539, 43.540, 162.068, and 210.493, RSMo, and to enact in lieu thereof seven new sections relating to background checks, with existing penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 43.539, 43.540, 162.068, and 210.493, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 43.539, 43.540, 162.068, 168.631, 171.097, 195.817, and 210.493, to read as follows:

43.539. 1. As used in this section, the following terms mean:

(1) "Applicant", a person who:

(a) Is actively employed by or seeks employment with a qualified entity;

(b) Is actively licensed or seeks licensure with a qualified entity;

(c) Actively volunteers or seeks to volunteer with a qualified entity;

(d) Is actively contracted with or seeks to contract with a qualified entity; or

(e) Owns or operates a qualified entity;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 (2) "Care", the provision of care, treatment,
14 education, training, instruction, supervision, or recreation
15 to children, the elderly, or disabled persons;

16 (3) "Missouri criminal record review", a review of
17 criminal history records and sex offender registration
18 records under sections 589.400 to 589.425 maintained by the
19 Missouri state highway patrol in the Missouri criminal
20 records repository;

21 (4) "Missouri Rap Back program", any type of automatic
22 notification made by the Missouri state highway patrol to a
23 qualified entity indicating that an applicant who is
24 employed, licensed, or otherwise under the purview of that
25 entity has been arrested for a reported criminal offense in
26 Missouri as required under section 43.506;

27 (5) "National criminal record review", a review of the
28 criminal history records maintained by the Federal Bureau of
29 Investigation;

30 (6) "National Rap Back program", any type of automatic
31 notification made by the Federal Bureau of Investigation
32 through the Missouri state highway patrol to a qualified
33 entity indicating that an applicant who is employed,
34 licensed, or otherwise under the purview of that entity has
35 been arrested for a reported criminal offense outside the
36 state of Missouri and the fingerprints for that arrest were
37 forwarded to the Federal Bureau of Investigation by the
38 arresting agency;

39 (7) "Patient or resident", a person who by reason of
40 age, illness, disease, or physical or mental infirmity
41 receives or requires care or services furnished by an
42 applicant, as defined in this section, or who resides or
43 boards in, or is otherwise kept, cared for, treated, or

44 accommodated in a facility as defined in section 198.006,
45 for a period exceeding twenty-four consecutive hours;

46 (8) "Qualified entity", a person, business, or
47 organization that provides care, care placement, or
48 educational services for children, the elderly, or persons
49 with disabilities as patients or residents, including a
50 business or organization that licenses or certifies others
51 to provide care or care placement services;

52 (9) "Youth services agency", any agency, school, or
53 association that provides programs, care, or treatment for
54 or exercises supervision over minors.

55 2. The central repository shall have the authority to
56 submit applicant fingerprints to the National Rap Back
57 program to be retained for the purpose of being searched
58 against future submissions to the National Rap Back program,
59 including latent fingerprint searches. Qualified entities
60 may conduct Missouri and national criminal record reviews on
61 applicants and participate in Missouri and National Rap Back
62 programs for the purpose of determining suitability or
63 fitness for a permit, license, or employment, and shall
64 abide by the following requirements:

65 (1) The qualified entity shall register with the
66 Missouri state highway patrol prior to submitting a request
67 for screening under this section. As part of the
68 registration, the qualified entity shall indicate if it
69 chooses to enroll applicants in the Missouri and National
70 Rap Back programs;

71 (2) Qualified entities shall notify applicants subject
72 to a criminal record review under this section that the
73 applicant's fingerprints shall be retained by the state
74 central repository and the Federal Bureau of Investigation

75 and shall be searched against other fingerprints on file,
76 including latent fingerprints;

77 (3) Qualified entities shall notify applicants subject
78 to enrollment in the National Rap Back program that the
79 applicant's fingerprints, while retained, may continue to be
80 compared against other fingerprints submitted or retained by
81 the Federal Bureau of Investigation, including latent
82 fingerprints;

83 (4) The criminal record review and Rap Back process
84 described in this section shall be voluntary and conform to
85 the requirements established in the National Child
86 Protection Act of 1993, as amended, and other applicable
87 state or federal law. As a part of the registration, the
88 qualified entity shall agree to comply with state and
89 federal law and shall indicate so by signing an agreement
90 approved by the Missouri state highway patrol. The Missouri
91 state highway patrol may periodically audit qualified
92 entities to ensure compliance with federal law and this
93 section;

94 (5) A qualified entity shall submit to the Missouri
95 state highway patrol a request for screening on applicants
96 covered under this section using a completed fingerprint
97 card;

98 (6) Each request shall be accompanied by a reasonable
99 fee, as provided in section 43.530, plus the amount
100 required, if any, by the Federal Bureau of Investigation for
101 the national criminal record review and enrollment in the
102 National Rap Back program in compliance with the National
103 Child Protection Act of 1993, as amended, and other
104 applicable state or federal laws;

105 (7) The Missouri state highway patrol shall provide,
106 directly to the qualified entity, the applicant's state

107 criminal history records that are not exempt from disclosure
108 under chapter 610 or otherwise confidential under law;

109 (8) The national criminal history data shall be
110 available to qualified entities to use only for the purpose
111 of screening applicants as described under this section.
112 The Missouri state highway patrol shall provide the
113 applicant's national criminal history record information
114 directly to the qualified entity;

115 (9) The determination whether the criminal history
116 record shows that the applicant has been convicted of or has
117 a pending charge for any crime that bears upon the fitness
118 of the applicant to have responsibility for the safety and
119 well-being of children, the elderly, or disabled persons
120 shall be made solely by the qualified entity. This section
121 shall not require the Missouri state highway patrol to make
122 such a determination on behalf of any qualified entity;

123 (10) The qualified entity shall notify the applicant,
124 in writing, of his or her right to obtain a copy of any
125 criminal record review, including the criminal history
126 records, if any, contained in the report and of the
127 applicant's right to challenge the accuracy and completeness
128 of any information contained in any such report and obtain a
129 determination as to the validity of such challenge before a
130 final determination regarding the applicant is made by the
131 qualified entity reviewing the criminal history
132 information. A qualified entity that is required by law to
133 apply screening criteria, including any right to contest or
134 request an exemption from disqualification, shall apply such
135 screening criteria to the state and national criminal
136 history record information received from the Missouri state
137 highway patrol for those applicants subject to the required
138 screening; and

139 (11) Failure to obtain the information authorized
140 under this section, with respect to an applicant, shall not
141 be used as evidence in any negligence action against a
142 qualified entity. The state, any political subdivision of
143 the state, or any agency, officer, or employee of the state
144 or a political subdivision shall not be liable for damages
145 for providing the information requested under this section.

146 3. The criminal record review shall include the
147 submission of fingerprints to the Missouri state highway
148 patrol, who shall conduct a Missouri criminal record review,
149 including closed record information under section 610.120.
150 The Missouri state highway patrol shall also forward a copy
151 of the applicant's fingerprints to the Federal Bureau of
152 Investigation for a national criminal record review.

153 4. The applicant subject to a criminal record review
154 shall provide the following information to the qualified
155 entity:

156 (1) Consent to obtain the applicant's fingerprints,
157 conduct the criminal record review, and participate in the
158 Missouri and National Rap Back programs;

159 (2) Consent to obtain the identifying information
160 required to conduct the criminal record review, which may
161 include, but not be limited to:

- 162 (a) Name;
- 163 (b) Date of birth;
- 164 (c) Height;
- 165 (d) Weight;
- 166 (e) Eye color;
- 167 (f) Hair color;
- 168 (g) Gender;
- 169 (h) Race;
- 170 (i) Place of birth;

171 (j) Social Security number; and

172 (k) The applicant's photo.

173 5. Any information received by an authorized state
174 agency or a qualified entity under the provisions of this
175 section shall be used solely for internal purposes in
176 determining the suitability of an applicant. The
177 dissemination of criminal history information from the
178 Federal Bureau of Investigation beyond the authorized state
179 agency or related governmental entity is prohibited. All
180 criminal record check information shall be confidential, and
181 any person who discloses the information beyond the scope
182 allowed is guilty of a class A misdemeanor.

183 6. A qualified entity enrolled in either the Missouri
184 or National Rap Back program shall be notified by the
185 Missouri state highway patrol that a new arrest has been
186 reported on an applicant who is employed, licensed, or
187 otherwise under the purview of the qualified entity. Upon
188 receiving the Rap Back notification, if the qualified entity
189 deems that the applicant is still serving in an active
190 capacity, the entity may request and receive the
191 individual's updated criminal history record. This process
192 shall only occur if:

193 (1) The entity has abided by all procedures and rules
194 promulgated by the Missouri state highway patrol and Federal
195 Bureau of Investigation regarding the Missouri and National
196 Rap Back programs;

197 (2) The individual upon whom the Rap Back notification
198 is being made has previously had a Missouri and national
199 criminal record review completed for the qualified entity
200 under this section [within the previous six years]; and

201 (3) The individual upon whom the Rap Back notification
202 is being made is a current employee, licensee, or otherwise
203 still actively under the purview of the qualified entity.

204 7. The Missouri state highway patrol shall make
205 available or approve the necessary forms, procedures, and
206 agreements necessary to implement the provisions of this
207 section.

43.540. 1. As used in this section, the following
2 terms mean:

3 (1) "Applicant", a person who:

4 (a) Is actively employed by or seeks employment with a
5 qualified entity;

6 (b) Is actively licensed or seeks licensure with a
7 qualified entity;

8 (c) Actively volunteers or seeks to volunteer with a
9 qualified entity; or

10 (d) Is actively contracted with or seeks to contract
11 with a qualified entity;

12 (2) "Missouri criminal record review", a review of
13 criminal history records and sex offender registration
14 records pursuant to sections 589.400 to 589.425 maintained
15 by the Missouri state highway patrol in the Missouri
16 criminal records repository;

17 (3) "Missouri Rap Back program", shall include any
18 type of automatic notification made by the Missouri state
19 highway patrol to a qualified entity indicating that an
20 applicant who is employed, licensed, or otherwise under the
21 purview of that entity has been arrested for a reported
22 criminal offense in Missouri as required under section
23 43.506;

24 (4) "National criminal record review", a review of the
25 criminal history records maintained by the Federal Bureau of
26 Investigation;

27 (5) "National Rap Back program", shall include any
28 type of automatic notification made by the Federal Bureau of
29 Investigation through the Missouri state highway patrol to a
30 qualified entity indicating that an applicant who is
31 employed, licensed, or otherwise under the purview of that
32 entity has been arrested for a reported criminal offense
33 outside the state of Missouri and the fingerprints for that
34 arrest were forwarded to the Federal Bureau of Investigation
35 by the arresting agency;

36 (6) "Qualified entity", an entity that is:

37 (a) An office or division of state, county, or
38 municipal government, including a political subdivision or a
39 board or commission designated by statute or approved local
40 ordinance, to issue or renew a license, permit,
41 certification, or registration of authority;

42 (b) An office or division of state, county, or
43 municipal government, including a political subdivision or a
44 board or commission designated by statute or approved local
45 ordinance, to make fitness determinations on applications
46 for state, county, or municipal government employment; or

47 (c) Any entity that is authorized to obtain criminal
48 history record information under 28 CFR 20.33.

49 2. The central repository shall have the authority to
50 submit applicant fingerprints to the National Rap Back
51 program to be retained for the purpose of being searched
52 against future submissions to the National Rap Back program,
53 including latent fingerprint searches. Qualified entities
54 may conduct Missouri and national criminal record reviews on
55 applicants and participate in Missouri and National Rap Back

56 programs for the purpose of determining suitability or
57 fitness for a permit, license, or employment, and shall
58 abide by the following requirements:

59 (1) The qualified entity shall register with the
60 Missouri state highway patrol prior to submitting a request
61 for screening under this section. As part of such
62 registration, the qualified entity shall indicate if it
63 chooses to enroll their applicants in the Missouri and
64 National Rap Back programs;

65 (2) Qualified entities shall notify applicants subject
66 to a criminal record review under this section that the
67 applicant's fingerprints shall be retained by the state
68 central repository and the Federal Bureau of Investigation
69 and shall be searched against other fingerprints on file,
70 including latent fingerprints;

71 (3) Qualified entities shall notify applicants subject
72 to enrollment in the National Rap Back program that the
73 applicant's fingerprints, while retained, may continue to be
74 compared against other fingerprints submitted or retained by
75 the Federal Bureau of Investigation, including latent
76 fingerprints;

77 (4) The criminal record review and Rap Back process
78 described in this section shall be voluntary and conform to
79 the requirements established in Pub. L. 92-544 and other
80 applicable state or federal law. As a part of the
81 registration, the qualified entity shall agree to comply
82 with state and federal law and shall indicate so by signing
83 an agreement approved by the Missouri state highway patrol.
84 The Missouri state highway patrol may periodically audit
85 qualified entities to ensure compliance with federal law and
86 this section;

87 (5) A qualified entity shall submit to the Missouri
88 state highway patrol a request for screening on applicants
89 covered under this section using a completed fingerprint
90 card;

91 (6) Each request shall be accompanied by a reasonable
92 fee, as provided in section 43.530, plus the amount
93 required, if any, by the Federal Bureau of Investigation for
94 the national criminal record review and enrollment in the
95 National Rap Back program in compliance with applicable
96 state or federal laws;

97 (7) The Missouri state highway patrol shall provide,
98 directly to the qualified entity, the applicant's state
99 criminal history records that are not exempt from disclosure
100 under chapter 610 or are otherwise confidential under law;

101 (8) The national criminal history data shall be
102 available to qualified entities to use only for the purpose
103 of screening applicants as described under this section.
104 The Missouri state highway patrol shall provide the
105 applicant's national criminal history record information
106 directly to the qualified entity;

107 (9) This section shall not require the Missouri state
108 highway patrol to make an eligibility determination on
109 behalf of any qualified entity;

110 (10) The qualified entity shall notify the applicant,
111 in writing, of his or her right to obtain a copy of any
112 criminal record review, including the criminal history
113 records, if any, contained in the report, and of the
114 applicant's right to challenge the accuracy and completeness
115 of any information contained in any such report and to
116 obtain a determination as to the validity of such challenge
117 before a final determination regarding the applicant is made
118 by the qualified entity reviewing the criminal history

119 information. A qualified entity that is required by law to
120 apply screening criteria, including any right to contest or
121 request an exemption from disqualification, shall apply such
122 screening criteria to the state and national criminal
123 history record information received from the Missouri state
124 highway patrol for those applicants subject to the required
125 screening; and

126 (11) Failure to obtain the information authorized
127 under this section with respect to an applicant shall not be
128 used as evidence in any negligence action against a
129 qualified entity. The state, any political subdivision of
130 the state, or any agency, officer, or employee of the state
131 or a political subdivision shall not be liable for damages
132 for providing the information requested under this section.

133 3. The criminal record review shall include the
134 submission of fingerprints to the Missouri state highway
135 patrol, who shall conduct a Missouri criminal record review,
136 including closed record information under section 610.120.
137 The Missouri state highway patrol shall also forward a copy
138 of the applicant's fingerprints to the Federal Bureau of
139 Investigation for a national criminal record review.

140 4. The applicant subject to a criminal record review
141 shall provide the following information to the qualified
142 entity:

143 (1) Consent to obtain the applicant's fingerprints,
144 conduct the criminal record review, and participate in the
145 Missouri and National Rap Back programs;

146 (2) Consent to obtain the identifying information
147 required to conduct the criminal record review, which may
148 include, but not be limited to:

149 (a) Name;

150 (b) Date of birth;

- 151 (c) Height;
152 (d) Weight;
153 (e) Eye color;
154 (f) Hair color;
155 (g) Gender;
156 (h) Race;
157 (i) Place of birth;
158 (j) Social Security number; and
159 (k) The applicant's photo.

160 5. Any information received by an authorized state
161 agency or a qualified entity pursuant to the provisions of
162 this section shall be used solely for internal purposes in
163 determining the suitability of an applicant. The
164 dissemination of criminal history information from the
165 Federal Bureau of Investigation beyond the authorized state
166 agency or related governmental entity is prohibited. All
167 criminal record check information shall be confidential and
168 any person who discloses the information beyond the scope
169 allowed is guilty of a class A misdemeanor.

170 6. A qualified entity enrolled in either the Missouri
171 or National Rap Back programs shall be notified by the
172 Missouri state highway patrol that a new arrest has been
173 reported on an applicant who is employed, licensed, or
174 otherwise under the purview of the qualified entity. Upon
175 receiving the Rap Back notification, if the qualified entity
176 deems that the applicant is still serving in an active
177 capacity, the entity may request and receive the
178 individual's updated criminal history record. This process
179 shall only occur if:

- 180 (1) The agency has abided by all procedures and rules
181 promulgated by the Missouri state highway patrol and Federal

182 Bureau of Investigation regarding the Missouri and National
183 Rap Back programs;

184 (2) The individual upon whom the Rap Back notification
185 is being made has previously had a Missouri and national
186 criminal record review completed for the qualified entity
187 under this section [within the previous six years]; and

188 (3) The individual upon whom the Rap Back notification
189 is being made is a current employee, licensee, or otherwise
190 still actively under the purview of the qualified entity.

191 7. The highway patrol shall make available or approve
192 the necessary forms, procedures, and agreements necessary to
193 implement the provisions of this section.

162.068. 1. (1) **As used in this section, "screened
2 volunteer" means any individual who assists a school by
3 providing uncompensated service, who may periodically be
4 left alone with students, who has successfully completed a
5 criminal background check before being left alone with a
6 student, and who is allowed to access student education
7 records only when necessary to assist the district and while
8 supervised by staff members. "Screened volunteer" includes,
9 but is not limited to, individuals who regularly assist in
10 the office or library, mentor or tutor students, coach or
11 supervise a school-sponsored activity before or after
12 school, or chaperone students on an overnight trip.**

13 (2) By July 1, 2012, every school district shall adopt
14 a written policy on information that the district provides
15 about former employees, both certificated and
16 noncertificated, to other public schools. By July 1, 2014,
17 every charter school shall adopt a written policy on
18 information that the charter school provides about former
19 employees, both certificated and noncertificated, to other
20 public schools. **Beginning January 1, 2024, such written**

21 **policy and the information provided under such policy shall**
22 **include information about screened volunteers.**

23 (3) The policy **described under this subsection** shall
24 include who is permitted to respond to requests for
25 information from potential employers and the information the
26 district or charter school would provide when responding to
27 such a request. The policy shall require that notice of
28 this provision be provided to all current employees **and**
29 **screened volunteers** and to all potential employers who
30 contact the school district or charter school regarding the
31 possible employment of an employee **or the possible service**
32 **of an individual as a screened volunteer.**

33 [(2)] (4) The policy described under this subsection
34 shall require the district or charter school to disclose, to
35 any public school that contacts such district or charter
36 school about a former employee **or screened volunteer,**
37 information regarding any violation of the published
38 regulations of the board of education of the district or the
39 governing body of the charter school by the former employee
40 **or screened volunteer** if such violation related to sexual
41 misconduct with a student and was determined to be an actual
42 violation by the board of the district or the governing body
43 of the charter school after a contested case due process
44 hearing conducted pursuant to board policy.

45 2. Any school district or charter school that employs
46 **or allows service as a screened volunteer by** a person about
47 whom the children's division conducts an investigation
48 involving allegations of sexual misconduct with a student
49 and reaches a finding of substantiated shall immediately
50 suspend the employment **or volunteer service** of such person,
51 notwithstanding any other provision of law, but the district
52 or charter school may return the person to **[his or her]** **such**

53 **person's** employment **or service as a screened volunteer** if
54 the child abuse and neglect review board's finding that the
55 allegation is substantiated is reversed by a court on appeal
56 and becomes final. Nothing shall preclude a school district
57 or charter school from otherwise lawfully terminating the
58 employment of any employee **or volunteer service of a**
59 **screened volunteer** about whom there has been a finding of
60 unsubstantiated resulting from an investigation by the
61 children's division involving allegations of sexual
62 misconduct with a student.

63 3. Any employee who is permitted to respond to
64 requests for information regarding former employees **or**
65 **screened volunteers** under a policy adopted by [his or her]
66 **such employee's** school district or charter school under this
67 section and who communicates only the information which such
68 policy directs, and who acts in good faith and without
69 malice shall be immune against any civil action for damages
70 brought by the former employee **or screened volunteer** arising
71 out of the communication of such information. If any such
72 action is brought, the employee may, at [his or her] **such**
73 **employee's** option, request the attorney general to defend
74 [him or her] **such employee** in such suit and the attorney
75 general shall provide such defense, except that if the
76 attorney general represents the school district or the
77 department of elementary and secondary education in a
78 pending licensing matter under section 168.071 the attorney
79 general shall not represent the school district employee.

80 4. Notwithstanding the provisions of subsection 2 of
81 this section, if a district or charter school that has
82 employed any employee **or allowed an individual to serve as a**
83 **screened volunteer** whose job **or volunteer service** involves
84 contact with children receives allegations of sexual

85 misconduct, as provided in section 566.083, concerning the
86 employee **or screened volunteer** and, as a result of such
87 allegations or as a result of such allegations being
88 substantiated by the child abuse and neglect review board,
89 dismisses the employee **or screened volunteer** or allows the
90 employee to resign in lieu of being fired **or allows the**
91 **screened volunteer to discontinue volunteer service on such**
92 **volunteer's own volition** and fails to disclose the
93 allegations of sexual misconduct when furnishing a reference
94 for the former employee **or screened volunteer** or responding
95 to a potential employer's request for information regarding
96 such employee **or screened volunteer**, the district or charter
97 school shall be directly liable for damages to any student
98 of a subsequent employing district or charter school who is
99 found by a court of competent jurisdiction to be a victim of
100 the former employee's **or screened volunteer's** sexual
101 misconduct, and the district or charter school shall bear
102 third-party liability to the employing district or charter
103 school for any legal liability, legal fees, costs, and
104 expenses incurred by the employing district or charter
105 school caused by the failure to disclose such information to
106 the employing district or charter school.

107 5. If a school district or charter school has
108 previously employed a person **or allowed an individual to**
109 **serve as a screened volunteer** about whom the children's
110 division has conducted an investigation involving
111 allegations of sexual misconduct with a student and has
112 reached a finding of substantiated and another public school
113 contacts the district or charter school for a reference for
114 the former employee **or screened volunteer**, the district or
115 charter school shall disclose the results of the children's
116 division's investigation to the public school.

117 6. Any school district or charter school employee **or**
118 **screened volunteer**, acting in good faith, who reports
119 alleged sexual misconduct on the part of a teacher or other
120 school employee **or screened volunteer** shall not be
121 discharged or otherwise discriminated against in any fashion
122 because of such reporting.

123 7. Any school district or charter school shall, before
124 offering employment **or allowing service as a screened**
125 **volunteer** to any teacher **or individual** who was employed by
126 **or served as a screened volunteer in** a Missouri school
127 district or charter school, contact the department of
128 elementary and secondary education to determine the school
129 district or charter school that previously employed such
130 employee **or allowed such individual to serve as a screened**
131 **volunteer**. School districts and charter schools contacting
132 the department under this subsection shall request, from the
133 most recent, information as outlined in this section
134 regarding the former employee **or screened volunteer**.

135 8. Each school district and charter school shall
136 report the information maintained by such school district
137 and charter school under this section to the department of
138 elementary and secondary education.

168.631. 1. This section shall be known and may be
2 cited as "Emily's Law".

3 2. As used in this section, the following terms mean:

4 (1) "Association", a statewide athletic association or
5 organization that receives any public moneys and that has at
6 least one public school district as a member;

7 (2) "Employee", any staff employed by an association;

8 (3) "Mandated reporter", an individual with a legal
9 obligation under sections 210.109 to 210.183 to report to
10 the appropriate state department or local law enforcement

11 agency any suspicion of abuse or neglect or any belief that
12 an act that is prohibited under state law when committed on
13 school property has been committed;

14 (4) "Screened volunteer", the same definition as in
15 section 162.068.

16 3. An individual who is an employee of an association
17 shall be a mandated reporter as required under this section.

18 4. An association shall ensure that a criminal
19 background check is conducted on any screened volunteer or
20 person employed as a coach or a member of coaching staff
21 after January 1, 2024, before hiring such individual as a
22 coach or a member of a coaching staff or allowing such
23 individual to serve as a screened volunteer.

24 5. In order to facilitate the criminal history
25 background check described in subsection 4 of this section,
26 the applicant shall submit a set of fingerprints collected
27 pursuant to standards determined by the Missouri state
28 highway patrol. The fingerprints shall be used by the state
29 highway patrol to search the criminal history repository and
30 shall be forwarded to the Federal Bureau of Investigation
31 for searching the federal criminal history files.

32 6. The applicant shall pay the fee for the state
33 criminal history record information pursuant to section
34 43.530 and sections 210.900 to 210.936 and pay the
35 appropriate fee determined by the Federal Bureau of
36 Investigation for the federal criminal history record when
37 he or she applies for a position as a coach, a member of a
38 coaching staff, or a screened volunteer. The association
39 shall distribute the fees collected for the state and
40 federal criminal histories to the Missouri state highway
41 patrol.

42 7. An association shall facilitate an annual check of
43 persons employed as a coach or a member of coaching staff or
44 any screened volunteers against criminal history records in
45 the central repository under section 43.530, the sexual
46 offender registry under sections 589.400 to 589.426, and
47 child abuse central registry under sections 210.109 to
48 210.183.

49 8. An association may adopt a policy to provide for
50 reimbursement of expenses incurred by an employee for state
51 and federal criminal history information pursuant to section
52 43.530.

53 9. An association shall not employ a person as a coach
54 or a member of coaching staff or allow a person to serve as
55 a screened volunteer if, as a result of the criminal history
56 background check mandated by this section, it is determined
57 that such person has pled guilty or nolo contendere to, or
58 been found guilty of a crime or offense listed in section
59 168.071, a crime involving moral turpitude, or a similar
60 crime or offense committed in another state, the United
61 States, or any other country, regardless of imposition of
62 sentence.

63 10. If, as a result of the criminal history background
64 check mandated by this section, it is determined that a
65 coach, a member of coaching staff, or a screened volunteer
66 at an association has pled guilty or nolo contendere to, or
67 been found guilty of a crime or offense listed in section
68 168.071, a crime involving moral turpitude, or a similar
69 crime or offense committed in another state, the United
70 States, or any other country, regardless of imposition of
71 sentence, such crimes shall be grounds for dismissal of such
72 person from their position at the association.

73 11. Any person making a report to an association in
74 conformity with this section shall not be subject to civil
75 liability for such action.

76 12. A criminal background check and fingerprint
77 collection conducted under subsection 4 of this section
78 shall be valid for at least a period of one year.

79 13. If an association that has employed an individual
80 as a coach or a member of coaching staff or allowed an
81 individual to serve as a screened volunteer receives
82 allegations of sexual misconduct, as provided in section
83 566.083, concerning the employee or screened volunteer, and,
84 as a result of such allegations or as a result of such
85 allegations being substantiated by the child abuse and
86 neglect review board, dismisses the employee or screened
87 volunteer or allows the employee to resign in lieu of being
88 fired or allows the screened volunteer to discontinue
89 volunteer service on such volunteer's own volition and fails
90 to disclose the allegations of sexual misconduct when
91 furnishing a reference for the former employee or screened
92 volunteer or responding to a potential employer's request
93 for information regarding such employee or screened
94 volunteer, the association shall be directly liable for
95 damages to any student who is subsequently found by a court
96 of competent jurisdiction to be a victim of the former
97 employee's or screened volunteer's sexual misconduct, and
98 the association shall bear third-party liability to the
99 employer of the employee or screened volunteer for any legal
100 liability, legal fees, costs, and expenses incurred by the
101 employer caused by the failure to disclose such information
102 to the employer.

103 14. If an association has previously employed a coach
104 or a member of coaching staff or allowed an individual to

105 serve as a screened volunteer about whom the children's
106 division has conducted an investigation involving
107 allegations of sexual misconduct with a student and has
108 reached a finding of substantiated and a potential employer
109 of the former employee contacts the association for a
110 reference for the former employee or screened volunteer, the
111 association shall disclose the results of the children's
112 division's investigation to the potential employer.

113 15. Any employee or screened volunteer of an
114 association, acting in good faith, who reports alleged
115 sexual misconduct on the part of a coach, member of coaching
116 staff, or screened volunteer shall not be discharged or
117 otherwise discriminated against in any fashion because of
118 such reporting.

171.097. 1. School districts shall ensure that a
2 state criminal history background check consisting of open
3 records is conducted on any person who is eighteen years of
4 age or older, who is not counted by the district for
5 purposes of average daily attendance under section 163.011,
6 and who requests enrollment in a course that takes place on
7 school district property during regular school hours and
8 includes students counted by the district for purposes of
9 average daily attendance under section 163.011.

10 2. The state criminal history background check
11 required under this section shall be processed through the
12 Missouri state highway patrol prior to enrollment. The
13 person requesting enrollment in a course as described in
14 this section shall pay the fee for the state criminal
15 history background check pursuant to section 43.530.

16 3. If, as a result of the criminal history background
17 check required under this section, it is determined that a
18 person who requested enrollment has been convicted of a

19 crime or offense listed in subsection 6 of section 168.071,
20 or a similar crime or offense committed in another state,
21 the United States, or any other country, regardless of
22 imposition of sentence, the school district shall prohibit
23 such person from enrolling in any course for which a state
24 criminal history background check is required under this
25 section.

195.817. 1. The department of health and senior
2 services shall require all employees, contractors, owners,
3 and volunteers of marijuana facilities to submit
4 fingerprints to the Missouri state highway patrol for the
5 purpose of conducting a state and federal fingerprint-based
6 criminal background check.

7 2. The department may require that such fingerprint
8 submissions be made as part of a marijuana facility
9 application, a marijuana facility renewal application, and
10 an individual's application for a license or permit
11 authorizing that individual to be an employee, contractor,
12 owner, or volunteer of a marijuana facility.

13 3. Fingerprint cards and any required fees shall be
14 sent to the Missouri state highway patrol's central
15 repository. The fingerprints shall be used for searching
16 the state criminal records repository and shall also be
17 forwarded to the Federal Bureau of Investigation for a
18 federal criminal records search under section 43.540. The
19 Missouri state highway patrol shall notify the department of
20 any criminal history record information or lack of criminal
21 history record information discovered on the individual.
22 Notwithstanding the provisions of section 610.120 to the
23 contrary, all records related to any criminal history
24 information discovered shall be accessible and available to
25 the department.

26 4. As used in this section, the following terms shall
27 mean:

28 (1) "Contractor", a person performing work or service
29 of any kind for a marijuana facility for more than fourteen
30 days in a calendar year in accordance with a contract with
31 that facility;

32 (2) "Marijuana facility", an entity licensed or
33 certified by the department of health and senior services to
34 cultivate, manufacture, test, transport, dispense, or
35 conduct research on marijuana or marijuana products;

36 (3) "Owner", an individual who has a financial
37 interest or voting interest in ten percent or greater of a
38 marijuana facility.

210.493. 1. [Officers, managers,] As used in this
2 section, the following terms mean:

3 (1) "Applicant", any individual who applies or is
4 required to successfully complete the background check
5 requirements for employment or presence at a licensed
6 residential care facility, license-exempt residential care
7 facility, or child placing agency. For the purposes of
8 background checks conducted by the Missouri state highway
9 patrol, the term "applicant" is further defined in section
10 43.540;

11 (2) "Contractor", a person who contracts to do work
12 for or supply goods to a licensed residential care facility,
13 license-exempt residential care facility, or child placing
14 agency;

15 (3) "Employee", an individual who works in the service
16 of a licensed residential care facility, license-exempt
17 residential care facility, or child placing agency under an
18 express or implied contract for hire, whether written or
19 unwritten or full time or part time, under which the

20 licensed residential care facility, license-exempt
21 residential care facility, or child placing agency has the
22 right to control, in whole or in part, the details of the
23 individual's work performance;

24 (4) "Owner", an individual who holds an equity
25 interest in a licensed residential care facility, license-
26 exempt residential care facility, or child placing agency;

27 (5) "Volunteer", an individual who performs a service
28 for or on behalf of a licensed residential care facility,
29 license-exempt residential care facility, or child placing
30 agency of the individual's own free will without obligation
31 or without any expectation of a reward or compensation.

32 2. Contractors, volunteers with access to children,
33 **and** employees[, and other support staff] of licensed
34 residential care facilities and licensed child placing
35 agencies in accordance with sections 210.481 to 210.536;
36 owners of such residential care facilities who will have
37 access to the facilities; and owners of such child placing
38 agencies who will have access to children shall submit
39 fingerprints and any information that the department
40 requires to complete the background checks, as specified in
41 regulations established by the department, to the Missouri
42 state highway patrol for the purpose of conducting state and
43 federal fingerprint-based background checks.

44 [2. Officers, managers,]

45 3. Contractors, volunteers with access to children,
46 **and** employees[, and other support staff] of residential care
47 facilities subject to the notification requirements under
48 sections 210.1250 to 210.1286; any person eighteen years of
49 age or older who resides at or on the property of such
50 residential care facility; any person who has unsupervised
51 contact with a resident of the residential care facility;

52 and owners of such residential care facilities who will have
53 access to the facilities shall submit fingerprints and any
54 information that the department requires to complete the
55 background checks, as specified in regulations established
56 by the department, to the Missouri state highway patrol for
57 the purpose of conducting state and federal fingerprint-
58 based background checks.

59 [3.] 4. A background check shall include:

60 (1) A **state and** Federal Bureau of Investigation
61 fingerprint check; **and**

62 (2) A search of the [National Crime Information
63 Center's] National Sex Offender Registry; and

64 (3) A search of the following registries,
65 repositories, or databases in Missouri, the state where the
66 applicant resides, and each state where such applicant
67 resided during the preceding five years:

68 (a) The state criminal registry or repository, with
69 the use of fingerprints being required in the state where
70 the applicant resides and optional in other states;

71 (b) The state sex offender registry or repository;

72 (c) The state family care safety registry; and

73 (d) The state-based child abuse and neglect registry
74 and database.

75 [4.] 5. For the purposes this section and
76 notwithstanding any other provision of law, "department"
77 means the department of social services.

78 [5.] 6. The department shall be responsible for
79 background checks as part of a residential care facility or
80 child placing agency application for licensure, renewal of
81 licensure, or for license monitoring.

82 [6.] 7. The department shall be responsible for
83 background checks for residential care facilities subject to

84 the notification requirements of sections 210.1250 to
85 210.1286.

86 [7.] 8. Fingerprint cards and any required fees shall
87 be sent to the Missouri state highway patrol's central
88 repository. The fingerprints shall be used for searching
89 the state criminal records repository and shall also be
90 forwarded to the Federal Bureau of Investigation for a
91 federal criminal records search under section 43.540. The
92 Missouri state highway patrol shall notify the department of
93 any criminal history record information or lack of criminal
94 history record information discovered on the individual.
95 Notwithstanding the provisions of section 610.120, all
96 records related to any criminal history information
97 discovered shall be accessible and available to the
98 department.

99 [8.] 9. Fingerprints submitted to the Missouri state
100 highway patrol for the purpose of conducting state and
101 federal fingerprint-based background checks under this
102 section shall be valid for a period of five years.

103 [9.] 10. The department shall provide the results of
104 the background check to the applicant in a statement that
105 indicates whether the applicant is eligible or ineligible
106 for employment or presence at the licensed residential care
107 facility or licensed child placing agency. The department
108 shall not reveal to the residential care facility or the
109 child placing agency any disqualifying offense or other
110 related information regarding the applicant. The applicant
111 shall have the opportunity to appeal an ineligible finding.

112 [10.] 11. The department shall provide the results of
113 the background check to the applicant in a statement that
114 indicates whether the applicant is eligible or ineligible
115 for employment or presence at the residential care facility

116 subject to the notification requirements of sections
117 210.1250 to 210.1286. The department shall not reveal to
118 the residential care facility any disqualifying offense or
119 other related information regarding the applicant. The
120 applicant shall have the opportunity to appeal an ineligible
121 finding.

122 [11.] 12. An applicant shall be ineligible if the
123 applicant:

124 (1) Refuses to consent to the background check as
125 required by this section;

126 (2) Knowingly makes a materially false statement in
127 connection with the background check as required by this
128 section;

129 (3) Is registered, or is required to be registered, on
130 a state sex offender registry or repository or the National
131 Sex Offender Registry;

132 (4) Is listed as a perpetrator of child abuse or
133 neglect under sections 210.109 to 210.183 or any other
134 finding of child abuse or neglect based on any other state's
135 registry or database; or

136 (5) Has pled guilty or nolo contendere to or been
137 found guilty of:

138 (a) Any felony for an offense against the person as
139 defined in chapter 565;

140 (b) Any other offense against the person involving the
141 endangerment of a child as prescribed by law;

142 (c) Any misdemeanor or felony for a sexual offense as
143 defined in chapter 566;

144 (d) Any misdemeanor or felony for an offense against
145 the family as defined in chapter 568;

146 (e) Burglary in the first degree as defined in section
147 569.160;

148 (f) Any misdemeanor or felony for robbery as defined
149 in chapter 570;

150 (g) Any misdemeanor or felony for pornography or
151 related offense as defined in chapter 573;

152 (h) Any felony for arson as defined in chapter 569;

153 (i) Any felony for armed criminal action as defined in
154 section 571.015, unlawful use of a weapon as defined in
155 section 571.030, unlawful possession of a firearm as defined
156 in section 571.070, or the unlawful possession of an
157 explosive as defined in section 571.072;

158 (j) Any felony for making a terrorist threat as
159 defined in section 574.115, 574.120, or 574.125;

160 (k) A felony drug-related offense committed during the
161 preceding five years; or

162 (l) Any similar offense in any federal, state, or
163 other court of similar jurisdiction of which the department
164 has knowledge.

165 [12.] 13. Any person aggrieved by a decision of the
166 department shall have the right to seek an administrative
167 review. The review shall be filed with the department
168 within fourteen days from the mailing of the notice of
169 ineligibility. Any decision not timely appealed shall be
170 final.

171 [13.] 14. Any required fees shall be paid by the
172 individual applicant, facility, or agency.

173 [14.] 15. The department is authorized to promulgate
174 rules, including emergency rules, to implement the
175 provisions of this section. Any rule or portion of a rule,
176 as that term is defined in section 536.010, that is created
177 under the authority delegated in this section shall become
178 effective only if it complies with and is subject to all of
179 the provisions of chapter 536 and, if applicable, section

180 536.028. This section and chapter 536 are nonseverable and
181 if any of the powers vested with the general assembly
182 pursuant to chapter 536 to review, to delay the effective
183 date, or to disapprove and annul a rule are subsequently
184 held unconstitutional, then the grant of rulemaking
185 authority and any rule proposed or adopted after July 14,
186 2021, shall be invalid and void.

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